

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Jamie Tyler Nesbitt,
as personal representative of
the Estate of David Lynn Tyler, Sr.,

Plaintiff,

vs.

Kershaw County Sheriff's Office; Sheriff Jim
Matthews, individually and in his official
capacity; Marvin Brown; Brooks Houser; Andy
Watts; Lee Young; and Brian Morris,

Defendants.

C/A No. 3:13-cv-01784-JFA

ORDER

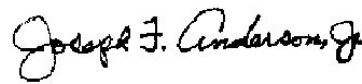
This matter comes before the court on the defendants' motion for summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure. ECF No. 18. In the motion, the defendants seek to dismiss the plaintiff's causes of action brought pursuant to 42 U.S.C. § 1983 and the South Carolina Tort Claims Act ("SCTC"), S.C. Code Ann. 15-78-40 *et seq.* The plaintiff, as personal representative of the estate of David Lynn Tyler, Sr., has responded in opposition, ECF No. 22, and the court heard oral arguments on July 28, 2014.

After carefully reviewing the applicable laws, the record in this case, as well as the arguments presented by the parties, the court, for the reasons stated in the hearing, hereby grants the defendants' motion for summary judgment on: (1) the First Amendment claim against the individual defendants—Sheriff Jim Matthews, Marvin Brown, Brooks Houser, Andy Watts, Lee Young, and Brian Morris—for violation of the decedent's freedom of speech under section 1983; and (2) the state law claim for wrongful death against Kershaw County Sheriff's Office ("KCSO") brought under the SCTCA. The court denies the motion for summary judgment on: (1) the Fourth Amendment claim against the individual defendants for illegal seizure of the decedent, brought under section 1983; (2) the Fourth Amendment claim against the individual

defendants for excessive force during seizure of the decedent, brought under section 1983; (3) the common law claim of battery against KCSO, brought pursuant to the SCTCA; and (4) the common law claim for false imprisonment against KCSO, brought pursuant to the SCTCA. The plaintiff already has withdrawn the Fourteenth Amendment claim against the individual defendants for failure to provide necessary medical care to the decedent, brought under section 1983; and the common law claim for negligent hiring, supervision and retention against KCSO, brought under the SCTCA.

IT IS SO ORDERED.

July 29, 2014
Columbia, South Carolina

A handwritten signature in black ink, reading "Joseph F. Anderson, Jr." in a cursive script.

Joseph F. Anderson, Jr.
United States District Judge